

F-2014-01894

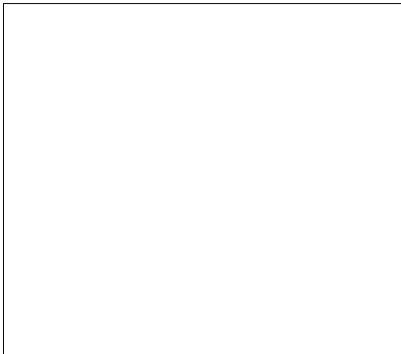
FOIA Request ID: 3049

FOIA Request submitted by:

Mr. Jason Leopold

Submitted on: June 23, 2014 : 21:20 - America/New_York

Investigative Journalist



(b)(6)

JUN 25 2014

United States

Request:

This is a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, et seq. I request any and all records relating or referring to "DEVIL EYES." The CIA acknowledged the existence of the DEVIL EYES project in on the record comments an agency spokesperson made to the Washington Post:

http://m.washingtonpost.com/world/national-security/cia-hatched-plan-to-make-demon-toy-to-counter-bin-laden-influence/2014/06/19/cb3d571c-f0d0-11e3-914c-1fbd0614e2d4_story.html

You may limit this request to emails dated or transmitted and/or received between April 1, 2014 and the date the search for responsive records is conducted. You may limit this to an electronic keyword search of the agency emails for those individuals.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please "black out" rather than "white out" or "cut out."

In addition, I draw your attention to President Obama's 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

I am a widely published independent investigative reporter. I am a regular contributor to Al Jazeera America, The Guardian and VICE News. In addition, I am the Editor at Large for the online publication, The Public Record (www.pubrecord.org). I have also had my journalism published in dozens of domestic and international publications, including Al Jazeera English and The Nation.

According to 5 U.S.C. 552(a)(4)(A)(ii), codifying the ruling of Nat'l Security Archive v. Dept of Defense, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

I have a clear intent to "publish[] or otherwise disseminate[] information to the public." Id. at 1386 (quoting the following legislative history: 1) It is critical that the phrase "representative of the news media" be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a "representative of the news media." 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media and as such I am also requesting a public interest fee waiver.

Please ensure that, in accordance with the DC Circuit's ruling in *Chambers v.*

Dept of the Interior, 568 F.3d 998 (D.C. Cir. 2009), all records potentially responsive to this FOIA request are immediately preserved from destruction until the final resolution of this FOIA action. Destruction of potentially responsive records after the receipt of a FOIA request is considered "contumacious conduct" by the DC Circuit. See *id.* at 1004.

Your agency is required by law to respond to this request within 20 working days. Failure to timely comply may result in the filing of a civil action against your agency in a United States District Court.

Please provide any records produced in response to this request in electronic

(soft-copy) form. Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me.

Fee Waiver:

I intend to publish a news report on the DEVIL EYES project for VICE News and further intend to use any and all responsive records to prepare my story.

I have a clear intent to "publish[] or otherwise disseminate[] information to the public." *Id.* at 1386 (quoting the following legislative history: 1) It is critical that the phrase "representative of the news media" be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a "representative of the news media." 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media and as such I am also requesting a public interest fee waiver.